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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/997,310	11/28/2001	John T. Ziegenhorn	ZIEG.001A	4415

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EXAMINER

McCloud, Renata D

ART UNIT	PAPER NUMBER
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2837

DATE MAILED: 08/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/997,310

Applicant(s)

ZIEGENHORN ET AL.

Examiner

Renata McCloud

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 and 23-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 27-35 is/are allowed.
- 6) ☒ Claim(s) 1,3-9,12,14-16,18-21,23-26,36 is/are rejected.
- 7) ☒ Claim(s) 2,10,11,17 and 37 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 12, 14-16, 18, 20, 21, 23, 24, 26, and 36 are rejected under 35 U.S.C. 102(e) as being anticipated by Miller (US 6713741).

Claim 12: Miller teaches a cooking apparatus comprising a surface (Fig. 6: 30), a cover (Fig. 6: 11) that provides hollow chamber having an adjustable opening (Fig. 6:15) over the surface (Fig. 6: 60); and a motor (Fig. 6: 40) coupled to the cover (Fig. 6:11) to adjust the opening between the cover (Fig. 6: 11) and the grilling surface (Fig. 6: 30); and a remote control (Fig. 6:55, Col. 7:60-8:2) transmitting a control signal to the motor (Fig. 6: 55 is away from the motor).

Claims 14: the remote control transmits start and stop signals to the motor (Col. 7:60-8:2).

Claim 15: the motor only operates during transmission of control signals to the motor (Col. 7: 60-8:2).

Claim 16: a remote control (Fig. 6:55, Col. 7:60-8:2) transmitting signals to control flow of a combustible fuel (Col. 6:30-34, Col. 7:62-65).

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Claim 18: the motor (Fig. 6:40) is detachable (The motor can be taken off).

Claim 20: the motor stops movement of the cover at a point within a full range of cover movement (Col. 9: 28-31).

Claim 21: a cooking apparatus comprising a grilling surface (Fig. 6: 30), a cover (Fig. 6: 11) that provides hollow chamber having an adjustable opening (Fig. 6: 15) over the grilling surface (Fig. 6: 30); cover movement means (Fig. 6: 40) for opening and closing the cover means over the grilling surface and a remote control (Fig. 6:55, Col. 7:60-8:2) for transmitting a signal to the cover movement means (Fig. 6: 40).

Claim 23: a method of controlling an opening of a hollow chamber between a cover (Fig. 6: 15) and a surface (Fig. 6: 30) comprising: causing a motor (Fig. 6: 40) to operate upon receiving a first signal (Col. 8:59-63); the motor (Fig. 6: 40) coupled to the cover (Fig. 6:15) such that operation of the motor (Fig. 6: 30) causes an adjustment in the placement of the cover (Fig. 6:15) over the surface (Fig. 6: 30); and causing the motor (Fig. 6: 40) the stop operating upon receiving a second signal (Col. 9:12-16).

Claim 24: activating a first control signal generates a first signal (Col. 8:59-3)

Claim 26: activating a second control signal generates a second signal (Col. 9 12-16).

Claim 36: the cover (Fig. 6: 11) is cupped over the surface (Fig. 6: 30).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 1, 3-7, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Basek et al (US 5058493) in view of Miller (US 6713741).

Claim 1: Basek et al teach an apparatus comprising a grill (Fig. 1:) having an upper surface (e.g. Fig. 1: G) and a lower surface (e.g. Fig. 1: underneath G), the lower surface being adapted for receiving heat from a heating source and the upper surface being adapted for transmitting heat, a cover (Fig. 1: Cover behind 10) having an interior surface (Fig. 1: inside of the cover) and an exterior surface (Fig. 1: outside of the cover), wherein the cover comprises a rear portion (Fig. 1: rear of cover), a front portion (Fig. 1: front of cover), and a lateral portion (Fig. 1: top of the cover); a hollow cavity (Fig. 1: inside of the cover) between the inner surface of the cover (Fig. 1: the cover behind 10) and the upper grilling surface (Fig. 1: G), such that when the cover is substantially closed, objects on the grilling surface do not contact the inner surface of the cover; an opening formed between the front and lateral portions of the cover and the upper grilling surface (Fig. 1: opening between G and the cover behind 10), the opening adjustable by the rotation of the cover (Fig. 1: the cover opens and closes by the hinge connecting the cover to the grill frame). Basek et al do not teach a motor coupled to the cover, the motor adjusting the opening between the cover and the grill, and a motor controller. Miller teaches a motor (Fig. 6: 40) coupled to a cover (Fig. 6: 11), and a motor controller (Fig. 6: 55) adjusting the opening. It would have been obvious to one having ordinary skill in the art at the time that the invention was made to modify the apparatus taught by

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Basek et al to attach a motor to the cover and use a motor controller as taught by Miller. The advantage of this would be the ability to mechanically open the lid.

Claim 3: Basek et al and Miller teach the limitations of claim 1. Referring to claim 3, Miller teaches the motor controller comprises a remote control (Fig. 6: 55; Col. 7:60-8:2).

Claim 4: Basek et al and Miller teach the limitations of claim 1. Referring to claim 4, Miller teaches the remote control (Fig. 6:55) transmits start and stop signals to the motor (Col. 7:60-8:2).

Claim 5: Basek et al and Miller teach the limitations of claim 4. Referring to claim, Miller teaches the motor only operates during transmission of control signals to the motor (Col. 7: 60-8:2).

Claim 6: Basek et al and Miller teach the limitations of claim 4. Referring to claim 6, Miller teaches a remote control (Fig. 6:55, Col. 7:60-8:2) transmitting signals to control flow of a combustible fuel (Col. 6:30-34, Col. 7:62-65).

Claim 7: Basek et al and Miller teach the limitations of claim 1. Referring to claim 7, Miller teaches the motor (Fig. 6:40) is detachable (The motor can be taken off).

Claim 9: Basek et al and Miller teach the limitations of claim 1. Referring to claim 9, Miller teaches the motor stops movement of the cover at a point within a full range of cover movement (Col. 9: 28-31).

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5. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miller applied to claim 12 above, and further in view of limura et al (U.S. 5,779,032).

Claim 19: Miller teaches the limitations of claim 12. Referring to claim 19, Miller does not teach a battery powered motor. limura et al teach a battery-powered motor (Col. 1:20-21). It would have been obvious to one having ordinary skill in the art at the time that the invention was made to modify the apparatus taught by Miller to use a battery powered motor as taught by limura et al. The advantage of this would be the cordless operation of the motor.

Allowable Subject Matter

6. Claims 27-35 allowed. Claims 2, 10, 11, 17, and 37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. They are: Zagoroff (US 4616123), Sanchez (US 4852476), Barkhau et al (US 5185172), Edamula (US 4837414), Decuir (US 3961571), and Egginger et al (DE 19926762A1).

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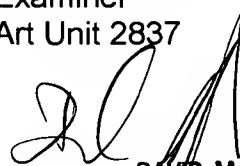
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Renata McCloud whose telephone number is (571) 272-2069. The examiner can normally be reached on Mon.- Fri. from 8 am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on (571) 272-2800 ext. 4. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RDM

Renata McCloud
Examiner
Art Unit 2837



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